

**SYNOPSIS OF THE MAY 17, 2018 DEPOSITION OF TIMOTHY FEIL**

The following is a brief synopsis of the facts to which Timothy Feil, Esq. testified at his deposition. COR Clearing, LLC (“COR”) is offering excerpts from Feil’s deposition, attached hereto, as substantive evidence pursuant to the Court’s Individual Rules and Practice, Rule 5.C.ii.

Feil represented Standard Financial Co., LLC (“First Standard”) as counsel, and was retained in the middle of 2016. P. 10:9-14. The scope of Feil’s retention with First Standard encompassed panoply of issues and matters, including customer-related issues, independent contractor issues, regulatory issues, arbitrations, SRO responses, and lease matters. P. 11:19-12:18. First Standard did not inform Feil that FINRA directed First Standard not to change clearing firms from Hilltop Securities Inc. to COR. P. 47:5-48-11.

UNITED STATES DISTRICT COURT SOUTHERN  
DISTRICT OF NEW YORK

- - - - -x

COR CLEARING, LLC,

Plaintiff,

-against-

Case No.

1:17-cv-02190(PAE)

FIRST STANDARD FINANCIAL CO., LLC,

Defendant.

- - - - -x

Anderson Kill, P.C.

1251 Avenue of the Americas, 42nd Floor  
New York, New York 10022

May 17, 2018

11:00 a.m.

VIDEO CONFERENCE EXAMINATION BEFORE  
TRIAL of TIMOTHY FEIL, the Witness  
herein, held at the above-mentioned time  
and place, pursuant to Subpoena, before  
Ilysa A. Linzer, a Notary Public in and  
for the State of New York.

MAGNA LEGAL SERVICES  
320 West 37th Street, 12th Floor  
New York, New York 10018  
(866) MAGNA-21

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A P P E A R A N C E S :

ANDERSON KILL, P.C.

Attorneys for Plaintiff

1251 Avenue of the Americas

42nd Floor

New York, New York 10020

BY: CHRISTIAN CANGIANO, ESQ.

JEREMY DEUTSCH, ESQ.

ROBERT BURSKY, ESQ.

Attorney for Witness

68 South Service Road

Suite 100

Melville, New York 11747

BY: ROBERT BURSKY, ESQ.

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FEDERAL STIPULATIONS

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IT IS HEREBY STIPULATED AND AGREED

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by and between the attorneys for the

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respective parties herein, that filing

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and sealing be and the same are hereby

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waived.

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IT IS FURTHER STIPULATED AND AGREED

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that all objections, except as to form of

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the question, shall be reserved to the

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time of the trial.

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IT IS FURTHER STIPULATED AND AGREED

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that the within deposition may be sworn

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to and signed before any officer

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authorized to administer an oath, with

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the same force and effect as if signed

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and sworn to before this Court.

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1

2 T I M O T H Y F E I L ,

3 the Witness herein, having

4 been duly sworn by the Notary

5 Public, was examined and testified

6 as follows:

7 EXAMINATION BY

8 MR. CANGIANO:

9 Q. State your name for the record,  
10 please.

11 A. Timothy Feil.

12 Q. State your address for the  
13 record, please.

14 A. 3920 Veterans Memorial Highway,  
15 Suite 8, Bohemia, New York 11716.

16 MR. DEUTSCH: Before we  
17 question Mr. Feil, very  
18 quickly I am going to put a  
19 statement on the record. We  
20 are -- my name is Jeremy  
21 Deutsch. I am an attorney  
22 with the law firm of Anderson  
23 Kill.

24 We are here for  
25 Mr. Feil's deposition. The

1 T. FEIL  
2 time for this was set by  
3 e-mails that we exchanged  
4 with Mr. Lieberman, who was  
5 included on every one of the  
6 e-mails. And as of May 14,  
7 2018, at 2:41 Mr. Bursky  
8 proposed that we have the  
9 deposition on Thursday or  
10 Friday of this week, and  
11 asked us to advise.

12 We heard further from  
13 Mr. Bursky later that same  
14 day at 6:55 p.m. on another  
15 e-mail in which he copied  
16 Mr. Lieberman, who is counsel  
17 for First Standard, and  
18 proposed 11:00 a.m. for the  
19 deposition. I confirmed for  
20 11:00 a.m. on May 15th at  
21 9:29 a.m., also including  
22 Mr. Lieberman for a video  
23 deposition. We heard nothing  
24 further from Mr. Lieberman.

25 On Tuesday May 15th at

1 T. FEIL

2 7:50 p.m. Mr. Bursky sent us  
3 a PDF file with a document  
4 production. We received  
5 that. Mr. Lieberman was on  
6 those, and never responded.

7 This morning -- I am  
8 sorry, we -- this morning we  
9 also had a correspondence  
10 with Mr. Lieberman in which  
11 we sent him the video link  
12 that we were using for today.  
13 So we sent the zoom meeting  
14 info invitation out on  
15 Tuesday at -- Tuesday,  
16 May 15th at 9:50 a.m., we  
17 have included Mr. Lieberman.  
18 We asked Mr. Lieberman in  
19 that e-mail if he would be  
20 joining us here at Anderson  
21 Kill or if he would be  
22 attending remotely. We did  
23 not receive a reply from  
24 Mr. Lieberman from that  
25 e-mail, although we have no

1 T. FEIL

2 reason to believe he did not  
3 receive it.

4 We re-forwarded the  
5 invitation this morning at  
6 10:00 to Mr. Bursky and  
7 Mr. Lieberman, and noted to  
8 Mr. Lieberman that we were  
9 proceeding at 11 today having  
10 not had a response from you  
11 at all.

12 We then at -- this  
13 morning at 10:55 wrote to  
14 Mr. Lieberman again and said  
15 that we were commencing the  
16 examination, that he had not  
17 responded, and that we were  
18 proceeding to the examination  
19 without him. We wrote to him  
20 and said -- at 10:57 and  
21 said, "Paul, you have not  
22 responded to any of the many  
23 e-mails concerning the  
24 conduct or scheduling of this  
25 deposition over the last two



1 T. FEIL

2 weeks. We intend to proceed  
3 with or without you at 11.  
4 You can appear remotely at  
5 any time through the link  
6 that I provided to you  
7 earlier in the week, and  
8 which I re-sent this morning  
9 to you and Mr. Bursky. Thank  
10 you." No response was  
11 received to that.

12 Mr. Bursky has telephoned  
13 Mr. Lieberman's office, and  
14 has learned that  
15 Mr. Lieberman is out of the  
16 office today at a hearing.  
17 We will be proceeding with  
18 the deposition in his  
19 absence. This was the  
20 deposition pursuant to  
21 Subpoena, which has been  
22 scheduled by consent.

23 We are ready to -- I'm  
24 sorry, Mr. Feil, for having  
25 to make you sit through that.

1 T. FEIL

2 THE WITNESS: No

3 worries. Thank you.

4 MR. CANGIANO: Did you  
5 want to add anything, Rob?

6 MR. BURSKY: No. We are  
7 ready to go, and let's  
8 proceed.

9 Q. Good morning, Mr. Feil. My  
10 name is Chris Cangiano. I am going to be  
11 asking you some question this morning.

12 A. Good morning.

13 Q. Have you been deposed before?

14 A. I have.

15 Q. Okay. So you know that all of  
16 your answers have to be yeses and nos,  
17 and not shaking of heads, and "uh-huhs,"  
18 and grunts, and that sort of thing;  
19 right?

20 A. Yes.

21 Q. Particularly since we are  
22 appearing over Skype, or video messenger  
23 it will probably make it even more  
24 difficult to understand. You are an  
25 attorney?

1 T. FEIL

2 A. I am.

3 Q. You are admitted into practice  
4 in the State of New York?

5 A. I am.

6 Q. How long have you been admitted  
7 to practice in New York?

8 A. Approximately 17 years.

9 Q. Did there come a point in time  
10 when you came to represent a company  
11 called First Standard?

12 A. Yes.

13 Q. Okay. When was that?

14 A. Approximately mid 2016.

15 Q. Mid 2016. Had you ever  
16 represented a company called Carl  
17 Standard?

18 A. I don't recall.

19 Q. Is there anything that you  
20 think would refresh your recollection?

21 A. There might be. I just at the  
22 moment don't know what that is.

23 Q. Okay. Has there ever come a  
24 point in time when you represented  
25 personally a man called Carmine Berardi?

1 T. FEIL

2 A. I don't believe so personally.

3 Q. Okay. Has there ever been a  
4 time when you have personally represented  
5 a man named John McCormick, or Jonathan  
6 McCormick?

7 A. Yes.

8 Q. Okay. When was that?

9 A. In, I believe, 2016 time-frame.

10 Q. Okay. Did it have anything to  
11 do with his employment by First Standard?

12 A. Yes.

13 Q. Can you tell me generally what  
14 the subject matter of the retention was?

15 A. It was involving his employment  
16 agreement with the firm.

17 Q. With First Standard?

18 A. Yes.

19 Q. Okay. Can you tell me what,  
20 generally, what the scope of your  
21 employment by First Standard was?

22 MR. BURSKY: You mean  
23 retention, not employment?

24 MR. CANGIANO: Yes, I'm  
25 sorry, retention.

1 T. FEIL

2 A. Since mid 2016 it has covered a  
3 panoply of issues and matters;  
4 customer-related issues for the firm,  
5 independent contractor issues related to  
6 the firm, regulatory issues relative to  
7 the firm and/or brokers, arbitrations,  
8 SRO responses, lease matters.

9 Q. Do you have an engagement --  
10 I'm sorry, were you finished?

11 A. I am finished insofar as that's  
12 all I can remember at the moment.

13 Q. Okay. I will do my best to not  
14 speak over you, and likewise I ask that  
15 you not speak over me if I am talking. I  
16 know it is hard because we are appearing  
17 remotely, so there may be a little lag,  
18 but hopefully we can work together on it.

19 Do you have an engagement  
20 letter with First Standard?

21 A. I have a retainer agreement for  
22 specific matters.

23 Q. So are you saying that each  
24 matter that you have asked them to --  
25 they have asked you to represent them on

1 T. FEIL

2 you have had a specific retainer relating  
3 to that matter?

4 A. Not for all matters, but, for  
5 example, an arbitration proceeding.  
6 Smaller matters, no, but matters that  
7 require a retainer receive a retainer.

8 Q. Okay. What matters were you  
9 representing them as to in 2016?

10 MR. BURSKY: Are you  
11 asking for types -- I mean --

12 MR. CANGIANO: Sure.

13 MR. BURSKY: Are you  
14 asking for types of matters?

15 MR. CANGIANO: Yes.

16 MR. BURSKY: I thought  
17 we just went over that, what  
18 he represented them on since  
19 inception.

20 MR. CANGIANO: Right. I  
21 am asking specifically in  
22 2016, though.

23 MR. BURSKY: Oh. Okay.  
24 Do you understand?

25 THE WITNESS: I believe

1 T. FEIL

2 I do.

3 MR. BURSKY: Okay.

4 A. Generically there was an  
5 arbitration proceeding, a customer  
6 arbitration proceeding that we were  
7 defending the firm's interest, the firm  
8 et al.'s interest. I believe at that  
9 time there was also a lease negotiation  
10 for an out of state office location, and  
11 some regulatory related inquiries.

12 Q. Okay. Were those with FINRA?

13 A. Some. Yes, I believe one was  
14 FINRA.

15 Q. Do you have direct contact with  
16 FINRA examiners on behalf of the firm?

17 A. I did not have the direct  
18 contact.

19 Q. Okay. Can I ask you if those  
20 matters changed at all in the first part  
21 of 2017, say, in the first two quarters?

22 A. Excuse me for clarity, when you  
23 say did they change --

24 Q. Were there further matters,  
25 yeah, I mean, were there any additional

1 T. FEIL

2 matters that you represented them on in  
3 the first two quarters of, say, 2017?

4 A. Not by specific retention --  
5 just for clarity of the record, not by  
6 specific retainer agreement. There may  
7 have been ancillary matters that were  
8 brought to my attention where our counsel  
9 was sought.

10 Q. Okay. Can you remember what  
11 any of those ancillary matters were,  
12 generally?

13 A. One was the matter of COR  
14 Clearing.

15 Q. Okay. Specifically were you  
16 asked to represent them, or what were you  
17 asked to give them advice on in relation  
18 to COR Clearing?

19 A. In general terms there was an  
20 issue involving the clearing firm  
21 agreement.

22 Q. Okay. Do you recall what the  
23 issue was?

24 A. I do recall what it was, I just  
25 don't know if I can go into detail on



1 T. FEIL

2 that.

3 Q. Okay. Generally -- by the way,  
4 just so I can clarify the record, when  
5 you say there was an issue with the  
6 clearing firm agreement, which clearing  
7 firm are you referring to?

8 A. Thank you for that clarifying  
9 question. There was COR Clearing, there  
10 was a COR Clearing agreement, and I think  
11 the predecessor agreement was Hilltop  
12 Securities.

13 Q. Okay. So generally, what  
14 can -- can you tell me what the issue was  
15 that you were being --

16 A. Generally there was a -- there  
17 was a conversation about transitioning  
18 from one firm to another.

19 Q. Okay. Mr. Feil, do you know  
20 why you are here today?

21 A. Not completely.

22 Q. Okay.

23 A. To be frank, not completely.

24 Q. That's fine. You have an  
25 Exhibit 42 there previously marked?

1 T. FEIL

2 A. Can you bear with me one  
3 moment?

4 Q. Absolutely, sir.

5 A. Yes, I do.

6 Q. Okay. If you look at  
7 Exhibit 42 you will see that it is a  
8 legal document titled "Amended Initial  
9 Disclosures Pursuant to Federal Rule  
10 Civil Procedure 26(a)(1) made by First  
11 Standard Financial Company, LLC."

12 A. Yes.

13 Q. Okay. If you go to the last  
14 page of the document, page six --

15 A. Yes.

16 Q. -- do you see that it is signed  
17 on August 1, 2017, by Paul A. Lieberman  
18 on behalf of the firm Eaton and Van  
19 Winkle, LLP?

20 A. Yes.

21 Q. They sign as attorneys for  
22 Defendants, First Standard Financial  
23 Company, LLC?

24 A. Yes.

25 Q. Do you know what an initial

1 T. FEIL

2 disclosure pursuant to Federal Rule of  
3 Civil Procedure 26(a)(1) is generally?

4 A. Yes.

5 Q. Can you explain for the record,  
6 please?

7 A. Generally it is the FRCP  
8 mandate by a party to disclose the  
9 identity of all witnesses that may have  
10 knowledge or information concerning the  
11 claims or defenses in a civil action in  
12 Federal Court.

13 Q. Great. If you will turn to  
14 page four, sir.

15 A. Yes.

16 Q. You will see that there is a  
17 chart at the top of the page?

18 A. Yes.

19 Q. Your name is listed in that  
20 chart?

21 A. Yes.

22 Q. You are listed as counsel  
23 for -- counsel. Do you see that?

24 A. Yes.

25 Q. Your address, if you look back

1 T. FEIL

2 at page three you will see the title  
3 headings, they didn't carry them over.  
4 Your address is listed as First Standard  
5 Financial, FSF?

6 A. I do see that, yes.

7 Q. It further goes on to say, "may  
8 by contacted through the undersigned  
9 counsel." Do you see that?

10 A. Yes.

11 Q. Was your offices ever located  
12 at First Standard?

13 A. No.

14 Q. Did you ever have a  
15 conversation with anyone at First  
16 Standard where you told them it was okay  
17 to list them as -- list their address as  
18 your address?

19 MR. BURSKY: Actually,  
20 that's a different question  
21 than what you are asking --  
22 than what the chart reflects  
23 because here it is Lieberman  
24 counsel; right?

25 MR. CANGIANO: I will

1 T. FEIL

2 get to that next, but it does  
3 say address FSF.

4 Q. I am just curious as to whether  
5 you ever advised them that it was  
6 appropriate for them to list you as --  
7 with an address at FSF?

8 A. I never advised them of such.

9 Q. Did they ever ask you?

10 A. Not to my recollection.

11 Q. Then when it says, "may be  
12 contacted through the undersigned  
13 counsel," do you see that?

14 A. Yes.

15 Q. Did you ever -- did  
16 Mr. Lieberman ever advise you that he was  
17 going to be a contact person for you with  
18 relation to anything?

19 A. No, not at the time of this  
20 document.

21 Q. So you never -- you never gave  
22 him any authority to list himself as a  
23 contact person for you; did you?

24 A. No.

25 Q. Okay. If you will flip back to

1 T. FEIL

2 page three quickly, the last box says,  
3 "subject."

4 A. Yes.

5 Q. If you look next to your name  
6 it says, "negotiation, execution,  
7 performance, and frustration of the  
8 clearing agreement." Do you see that?

9 A. I do.

10 Q. Do you have any knowledge  
11 regarding the negotiation of the clearing  
12 agreement between Cor and First Standard?

13 A. The negotiation -- and my  
14 hesitation is just trying to understand  
15 what could be encompassed in that phrase  
16 or term. Generally, no, I don't.

17 Q. Okay. Were you involved in  
18 negotiating the clearing agreement  
19 between Cor and First Standard at all?

20 A. No.

21 Q. Were you ever asked to review  
22 any negotiated terms prior to the  
23 agreement being executed?

24 A. No.

25 Q. Did you discuss any negotiated

1 T. FEIL

2 terms prior to the execution of the  
3 contract between Cor and First Standard  
4 with anyone at First Standard?

5 A. Not to my recollection.

6 Q. Is there anything that we could  
7 use to refresh your recollection?

8 A. Not that I can think of at the  
9 moment.

10 Q. Maybe looking back at your time  
11 sheets, would that help at all?

12 A. No.

13 Q. Now, it also says that you have  
14 knowledge regarding the execution of the  
15 clearing agreement between Cor and First  
16 Standard. Do you have any knowledge  
17 regarding the execution of the clearing  
18 agreement between Cor and First Standard?

19 A. Just so I understand the  
20 question, prior to or contemporaneous of  
21 the execution?

22 Q. Let's start with prior to?

23 A. No.

24 Q. Okay. And now let's move to  
25 contemporaneous with?

1 T. FEIL

2 A. No.

3 Q. Do you know when the agreement  
4 was executed between Cor and First  
5 Standard?

6 A. I believe it was the latter  
7 part of 2016.

8 Q. Sure. Just so we can get this  
9 clear, you produced some documents in  
10 relation to this case?

11 A. Yes.

12 Q. Do you have those documents  
13 there?

14 A. Yes.

15 Q. Can you take the documents that  
16 are Bates stamped TF 006 through 058,  
17 which I think is the bulk of the  
18 production.

19 A. Yes.

20 Q. Okay. I am going to hand those  
21 to the court reporter and ask her to mark  
22 them for identification purposes as  
23 Plaintiff's Exhibit 59.

24 (Whereupon, Bates stamped  
25 TF 006 through 058 was marked



1 T. FEIL

2 as Plaintiff's Exhibit 59 for  
3 identification, as of this  
4 date.)

5 Q. Mr. Feil, can I ask you to look  
6 at these documents. These were all  
7 produced from your files; is that  
8 correct?

9 A. Yes.

10 Q. TF 006 through 12 appear to be  
11 an e-mail chain; is that correct?

12 A. Yes.

13 Q. The top one is you forwarding  
14 this e-mail chain on to your attorney;  
15 correct?

16 A. Yes.

17 Q. Immediately under that is an  
18 e-mail from Mr. McCormick to you; is that  
19 correct?

20 A. Yes.

21 Q. That was sent on February 13,  
22 2017; is that right?

23 A. Yes.

24 Q. If you will look at the very --  
25 at page TF 012.

1 T. FEIL

2 A. Yes.

3 Q. You will see there are two PDF  
4 attachments?

5 A. Yes.

6 Q. If you can look quickly through  
7 pages 13 through 58 and tell me if those  
8 represent the two attachments?

9 A. (Perusing.) Yes.

10 Q. These are the attachments that  
11 Mr. McCormick sent to you on February 13,  
12 2017?

13 A. Yes.

14 Q. Okay. If you look at page TF  
15 50.

16 MR. BURSKY: 5-0?

17 MR. CANGIANO: 5-0.

18 A. Yes.

19 Q. Okay. You will see that -- you  
20 see it says, "First Standard Financial  
21 Company," and there is a signature  
22 underneath that?

23 A. I do see that.

24 Q. Do you recognize the signature?

25 A. I don't.

1 T. FEIL

2 Q. Okay. You see that it is  
3 dated, though, 11/18/2016?

4 A. Yes.

5 Q. Okay. I will represent to you  
6 that Mr. Berardi has already testified  
7 that he signed this on or about  
8 November 18, 2016. Then if you will go  
9 to page -- if you go to page 52.

10 A. Yes.

11 Q. You see this is a Schedule A of  
12 clearing agreement, and it is dated at  
13 the top October 27, 2016.

14 A. Yes.

15 Q. There are initials at the  
16 bottom for correspondent. Do you  
17 recognize those initials?

18 A. I don't.

19 Q. If I represent to you that they  
20 are Mr. McCormick's initials, that he has  
21 already testified that he has signed them  
22 or initialed them. Had you seen either  
23 of these --

24 A. I'm sorry, I didn't catch the  
25 first part of your --

1 T. FEIL

2 Q. I am going to represent to you  
3 that those are Mr. McCormick's initials,  
4 and he has testified that he initialed it  
5 on or about that date.

6 Had you seen either the  
7 clearing agreement or the Schedule A  
8 prior to February 13, 2017?

9 A. I don't recall.

10 Q. Is there anything that we can  
11 do to refresh your recollection as to  
12 that?

13 A. I don't believe so.

14 Q. Okay. Would a review of your  
15 time sheets for the period of  
16 October 2016 through February 2017 do  
17 anything to refresh your recollection in  
18 that regard?

19 A. No.

20 Q. Did you bill any time in that  
21 period for reviewing this contract?

22 A. I don't believe so.

23 Q. Or the Schedule A?

24 A. I don't believe so.

25 Q. Do you remember discussing the

1 T. FEIL

2 contract with anyone at First Standard in  
3 or around November of 2016?

4 A. I don't believe so.

5 Q. Or the Schedule A?

6 A. I don't believe so.

7 Q. So you have no recollection as  
8 to whether at the time of the execution  
9 of the agreements you had any personal  
10 knowledge in regards to them?

11 A. Personal knowledge with regard  
12 to the content of the documents, no.

13 Q. The content or the execution of  
14 the documents?

15 A. Without receiving a document my  
16 only hesitation is there may have been a  
17 generic or general discussion about the  
18 documents without me seeing them. I may  
19 have been aware of it, I just don't  
20 recall the contact time-frame.

21 Q. So if you can look back at  
22 Exhibit 59.

23 MR. BURSKY: Page 59?

24 MR. CANGIANO: No, the  
25 exhibit. I am sorry. Just

1 T. FEIL

2 the exhibit right now.

3 MR. BURSKY: Going to  
4 the very beginning?

5 MR. CANGIANO: Yes.

6 MR. BURSKY: TF 001?

7 MR. CANGIANO: Let's go  
8 to TF 008.

9 MR. BURSKY: 08?

10 MR. CANGIANO: Yes.

11 MR. BURSKY: Okay. We  
12 are there.

13 Q. You will see that this is an  
14 e-mail from Ethan McComb to Jonathan  
15 McCormick copying some other people as  
16 well?

17 A. Yes.

18 Q. Do you know who Mr. McComb is?

19 A. I do.

20 Q. Who do you know him to be?

21 A. The in-house general counsel  
22 for COR Clearing.

23 Q. Okay. Have you ever had any  
24 discussions with Mr. McComb?

25 A. I have.

1 T. FEIL

2 Q. What did you discuss with him?

3 A. Well, may I ask a clarifying  
4 point or question? Are you relegating  
5 that question only to this matter with  
6 COR Clearing?

7 Q. Have you had contacts with  
8 Mr. McComb unrelated to First Standard?

9 A. Yes.

10 Q. Okay. So I don't care about  
11 your contacts unrelated to First  
12 Standard. Just in regards to First  
13 Standard, have you had any contacts with  
14 Mr. McComb?

15 A. I don't specifically recall.

16 Q. Okay. Did you have any  
17 contacts with Mr. McComb regarding the  
18 negotiation of this agreement?

19 A. No.

20 Q. Did you have any contacts with  
21 Mr. McComb regarding the execution of  
22 this agreement?

23 A. No.

24 Q. Have you had any contacts with  
25 Mr. McComb regarding this agreement at

1 T. FEIL

2 all?

3 A. There may have been one brief  
4 telephone call in early 2017 regarding  
5 the agreement.

6 Q. Do you recall what would have  
7 been discussed?

8 A. I believe -- I believe it was  
9 the -- it was relative to a letter that  
10 COR Clearing had sent in or about  
11 February 2017 regarding the alleged  
12 breach of the clearing agreement.

13 Q. Okay. You just broke up there  
14 a little bit towards the end. In or  
15 about when?

16 A. I believe it was in or about  
17 the same time period of that -- of the  
18 letter that COR Clearing sent to First  
19 Standard regarding the purported breach  
20 of the clearing agreement.

21 Q. Do you recall what you sent to  
22 Mr. McComb?

23 A. Not specifically.

24 Q. Do you recall what he said to  
25 you?



1 T. FEIL

2 A. Not specifically, no.

3 Q. Do you recall how long the call  
4 was?

5 A. It was brief, maybe a few  
6 minutes, if at all.

7 Q. Okay. As a result of the call,  
8 did you do anything?

9 A. I don't understand the  
10 question, sorry.

11 Q. As a result of whatever you and  
12 Mr. McComb discussed, did you take any  
13 actions thereafter?

14 A. With Mr. McComb?

15 Q. With regard to anything in  
16 relation to First Standard?

17 A. Right. I am sorry, I don't  
18 specifically recall what transpired  
19 thereafter.

20 Q. Is there anything that would  
21 refresh your recollection?

22 A. I don't believe so.

23 Q. Would a review of your time  
24 sheets at all refresh your recollection?

25 A. No.

1 T. FEIL

2 Q. Did you bill time for making  
3 the call?

4 A. I don't believe so.

5 Q. Okay. You said that the call  
6 was in regards to a letter regarding a  
7 purported breach of the agreement; is  
8 that correct?

9 A. Yes.

10 Q. That's the agreement that we  
11 just looked at, the one that you were  
12 sent on the 13th?

13 A. Yes.

14 Q. Why do you say it was a  
15 purported breach?

16 A. Well, I believe there was a  
17 divergence of opinion in or about that  
18 time First Standard and Cor as to whether  
19 there was in fact a breach.

20 Q. Okay. And do you recall what  
21 the substance of the disagreement was?

22 A. No.

23 Q. Did you have any personal  
24 knowledge regarding the breach or  
25 purported breach of the contract?

1 T. FEIL

2 A. I have no personal knowledge,  
3 no.

4 Q. Or any of the facts or  
5 circumstances regarding the breach or  
6 purported breach of the contract?

7 A. I generally recall that being  
8 informed by First Standard that there was  
9 a conference call between principals at  
10 First Standard and Cor, and there was  
11 some heated debate about going forward  
12 with the agreements. There were some  
13 concerns by First Standard by its rep  
14 force about transitioning to Cor. There  
15 was concern by FINRA about the  
16 transaction itself, and some perceived  
17 business interruption issues, significant  
18 business interruption issues that could  
19 result with the intended transaction.

20 Q. Okay. What personal knowledge  
21 do you have regarding the issue of -- any  
22 of the issues raised by the rep force  
23 that you just referenced?

24 A. As I stated in response to the  
25 question before, I have no personal

1 T. FEIL

2 knowledge. This was all information that  
3 was shared with me in or about this late  
4 2016, early 2017 time-frame.

5 Q. It was shared to you by  
6 management at First Standard?

7 A. Correct.

8 Q. So you never spoke to anyone on  
9 the rep force, and no one on the rep  
10 force ever expressed any concern to you?

11 A. Not to me, no.

12 Q. Now, regarding FINRA, were you  
13 present for any discussions with FINRA  
14 where FINRA raised any issues in regards  
15 to the contract between Cor and First  
16 Standard?

17 A. No.

18 Q. Have you had any independent  
19 conversations with anyone at FINRA where  
20 any issues were raised regarding the  
21 contract between Cor and First Standard?

22 A. No.

23 Q. Do you know who William Jacob  
24 is?

25 A. I believe he is a FINRA

1 T. FEIL

2 employee.

3 Q. Okay. Have you had any  
4 conversations with Mr. Jacob regarding  
5 the contract between Cor and First  
6 Standard?

7 A. I have not.

8 Q. Just so that I can exhaust all  
9 of the topics that you raised, do you  
10 have any personal knowledge of any -- of  
11 the business interruption issues that  
12 were identified to you?

13 A. No, and as I stated, I have no  
14 personal knowledge of any of those  
15 issues.

16 Q. So the only basis for your  
17 statement is you were informed of this by  
18 the First Standard management?

19 A. That's my knowledge base, yes.

20 Q. Were you ever asked for any --  
21 to provide any legal advice regarding any  
22 of those subjects?

23 A. Just for clarity purposes,  
24 those subjects are business  
25 interruption --

1 T. FEIL

2 Q. I can break them down.

3 A. Okay.

4 Q. Were you ever asked to provide  
5 any legal advice with regards to the  
6 issues, the purported issues regarding  
7 the rep force, and the Cor/First Standard  
8 agreement?

9 A. There were discussions in that  
10 regard, yes.

11 Q. Where your legal advice was  
12 sought?

13 A. I would say it was in  
14 connection with a legal consultation,  
15 yes.

16 Q. Were you ever asked to provide  
17 any legal advice concerning FINRA and the  
18 Cor/First Standard agreement?

19 A. There was a discussion in that  
20 realm with management at First Standard.

21 Q. Do you recall when that was?

22 A. I believe it was in or about  
23 that same late 2016, early 2017  
24 time-frame.

25 Q. Okay. Can I ask you what the

1 T. FEIL

2 nature of the legal advice was?

3 A. I don't believe I am at liberty  
4 to say.

5 Q. So I just want to get it on the  
6 record, are you asserting a privilege?

7 A. Any communications had on those  
8 issues I believe is covered squarely by  
9 the attorney-client privilege.

10 Q. Okay. That's fine. I just  
11 want to get it on the record.

12 A. Yes.

13 Q. Likewise, the legal advice that  
14 you asked in regards to the rep force?

15 A. Yes.

16 Q. You are -- yes, you are  
17 asserting privilege to that as well?

18 A. Yes, there was a discussion,  
19 and any of those discussions are covered  
20 by the attorney-client privilege.

21 Q. Okay. Were you asked to  
22 provide any legal advice in regards to  
23 the business interruption issues?

24 A. There were discussions in the  
25 same realm and manner as the other two

1 T. FEIL

2 topics that we just discussed. And yes,  
3 I believe it is covered by  
4 attorney-client privilege.

5 Q. Did they take your advice on  
6 any of those subjects?

7 A. I don't know if they took it or  
8 not. I don't know that I can answer  
9 that.

10 Q. You don't know you can answer  
11 that because you believe it to be  
12 privileged, or you just don't know the  
13 answer to the question?

14 A. I think there are a lot of  
15 variables in that answer. There was a  
16 discussion. More than that, I can't say  
17 what they used to make any decisions.

18 Q. If you go back to the initial  
19 disclosures, it says that you have  
20 discoverable information concerning the  
21 performance of the clearing agreement  
22 between Cor and First Standard. Are you  
23 aware -- do you have any information,  
24 personal information regarding the  
25 performance of the clearing agreement?



1 T. FEIL

2 MR. BURSKY: When you  
3 say, "personal information,"  
4 do you mean personal  
5 knowledge?

6 Q. Personal knowledge, do you have  
7 any personal knowledge?

8 A. I have no personal knowledge.

9 Q. Okay. Did you have any  
10 discussions with anyone at First Standard  
11 regarding the performance of the clearing  
12 agreement?

13 A. Or lack thereof, yes.

14 Q. Okay. Do you recall when you  
15 had those conversations?

16 A. Yes, in that same time period  
17 of late 2016, early February 2017.

18 Q. Do you recall who you had them  
19 with?

20 A. Yes.

21 Q. Who was it?

22 A. I believe it was Jonathan  
23 McCormick.

24 Q. Okay. So now you have  
25 indicated that you represented

1 T. FEIL

2 Mr. McCormick both individually and you  
3 represent First Standard. Were you  
4 speaking to Mr. McCormick as an  
5 individual, or were you speaking to him  
6 as a representative of the company?

7 A. As a principal of the company.

8 Q. Do you know if Mr. McCormick is  
9 a principal of the company?

10 A. Yes.

11 Q. What interest does he hold in  
12 the company?

13 A. In terms of his office or  
14 share, I believe he is chief operating  
15 officer.

16 Q. Okay. Does he have a personal  
17 equity interest in the company at all; do  
18 you know?

19 A. I don't -- at that time, I  
20 don't -- I don't know if it has changed,  
21 but I think at that time he did not have  
22 an equity interest.

23 Q. Do you still represent him  
24 personally?

25 A. No.

1 T. FEIL

2 Q. Do you still represent First  
3 Standard?

4 A. Yes.

5 Q. Throughout this period, were  
6 you their primary attorney?

7 A. No.

8 Q. Do you know who their primary  
9 attorney was?

10 A. You know, as far as primary, at  
11 that time I don't know that that phrase  
12 fits. I think they had a few different  
13 outside counsels that handled various  
14 sectors of the firm business.

15 Q. Do you know who any of them  
16 were?

17 A. Yes.

18 Q. Can you name them for me?

19 A. I believe Ian Frimet of Wexler  
20 Burkhardt was one of them, and I believe  
21 Paul Lieberman.

22 Q. Okay. Those attorneys were  
23 representing First Standard  
24 contemporaneous to your representation as  
25 well?

1 T. FEIL

2 A. I am confident Ian Frimet of  
3 Wexler Burkhardt was. I am not sure if  
4 Paul Lieberman and/or his firm overlapped  
5 that same time period. As I testified,  
6 my time-frame spans from, I think, mid  
7 2016.

8 MR. BURSKY: Hold on. I  
9 have an emergency. Wait one  
10 second. Please.

11 MR. CANGIANO: We will  
12 go off for five minutes.

13 (Whereupon, a short break  
14 was taken at this time.)

15 Q. So you didn't have any  
16 involvement in reviewing or comments on  
17 any drafts of the agreement between Cor  
18 and First Standard; is that correct?

19 A. Correct.

20 Q. Do you know if Mr. Frimet did?

21 A. I believe that's correct.

22 Q. Okay. You didn't have any  
23 involvement advising Hilltop that First  
24 Standard was terminating its agreement  
25 with Hilltop?

1 T. FEIL

2 A. Correct, I did not.

3 Q. Do you know if Mr. Frimet was  
4 involved in that at all?

5 A. I don't.

6 Q. Did you have any -- you didn't  
7 have any involvement -- did you have any  
8 involvement with the decision to renew  
9 negotiations with Hilltop after First  
10 Standard entered into the Cor agreement?

11 A. No.

12 Q. Did they advise you that they  
13 were considering re-entering into  
14 negotiations with Hilltop after they  
15 entered into the agreement with Cor?

16 A. I believe they did.

17 Q. Do you recall when that was?

18 A. I do not.

19 Q. Was it prior to February of  
20 2017?

21 A. I believe it must have been,  
22 but I just can't recall when.

23 Q. Were you asked to provide any  
24 legal advice with regards to that?

25 A. As I addressed earlier, that

1 T. FEIL

2 was the nature of the legal consultation.

3 Q. Their desire to renew  
4 negotiations with Hilltop?

5 A. No.

6 Q. Okay. So maybe I have lost it.  
7 Let me re-ask the question. Were you  
8 asked to provide legal advice regarding  
9 the decision to reopen negotiations with  
10 Hilltop after the Cor agreement was  
11 signed?

12 A. No.

13 Q. You mentioned before that you  
14 were advised that there were issues, you  
15 were advised by First Standard management  
16 that there were issues that FINRA had  
17 raised; correct?

18 A. Yes.

19 Q. Do you remember what facts were  
20 provided to you with regards to that?

21 A. I do not.

22 Q. Do you remember what the issue  
23 was that FINRA purportedly raised?

24 A. In a very general summary that  
25 there was some indication or commentary

1 T. FEIL

2 by FINRA that Cor may not be the most  
3 appropriate fit.

4 Q. Okay. And do you recall who  
5 supposedly said that?

6 A. Who at FINRA?

7 Q. Yes.

8 A. I do not.

9 Q. Did you reach out to anyone  
10 other than First Standard in regards to  
11 that issue?

12 A. I don't believe I said I  
13 reached out to anybody on it, but that  
14 was communicated to me by First Standard.

15 Q. Okay. So did you then reach  
16 out to anyone at all, not -- as a result  
17 of that issue being raised by First  
18 Standard?

19 A. I did not.

20 Q. Okay. Do you recall doing any  
21 research as a result of being informed  
22 that that issue had been raised by FINRA?

23 A. No.

24 Q. Do you recall at all being told  
25 that FINRA advised them not to --

1 T. FEIL

2 directed them not to perform the  
3 contract?

4 A. Can you please repeat that?

5 Q. Sure. Do you recall being --  
6 were you ever advised that FINRA had  
7 directed them not to change clearing  
8 firms?

9 A. I don't believe I used the term  
10 "directed," but, again, I was told that  
11 by First Standard. I did not  
12 subsequently go out and do anything with  
13 that information.

14 Q. Okay. But what I am asking is,  
15 were you told by them that they were told  
16 that they couldn't do it?

17 A. I don't believe that was the  
18 language, the specific language that  
19 there was an edict by FINRA that they  
20 couldn't.

21 Q. That there was not one;  
22 correct?

23 A. Correct.

24 Q. Did you ever see anything in  
25 writing from FINRA expressing concern



1 T. FEIL

2 with First Standard clearing with Cor?

3 A. No.

4 Q. Did you ever see any e-mails  
5 from any FINRA examiner or representative  
6 expressing any concerns with FINRA moving  
7 to Cor --

8 A. Same response, no.

9 Q. Let me correct my question.  
10 From First Standard moving to Cor?

11 A. No.

12 Q. Did you have any discussions  
13 with anyone at Hilltop regarding the  
14 Cor/First Standard agreement?

15 A. No.

16 Q. Were you consulted on any  
17 matters at all regarding the  
18 Hilltop/First Standard clearing  
19 relationship?

20 A. Not more than I have already  
21 testified.

22 Q. Okay. So you had no  
23 involvement in their initial contract  
24 with -- between Cor and First Standard --  
25 rather, First Standard and Hilltop?

1 T. FEIL

2 A. Correct, I had no involvement.

3 Q. First Standard and Southwest?

4 A. Correct, I had no involvement  
5 with either the Hilltop and/or Southwest  
6 agreement.

7 Q. Okay. What about the renewed  
8 terms that they entered into eventually,  
9 were you ever asked to review those  
10 renewed terms?

11 A. I don't believe so.

12 Q. Were you ever asked to review  
13 any reviewed Schedule A regarding Hilltop  
14 and First Standard?

15 A. I don't believe so.

16 Q. Were you ever asked to consult  
17 with FINRA in regards to the  
18 nonperformance of the Cor/First Standard  
19 agreement?

20 A. As I -- no.

21 Q. Did you have any discussions  
22 with anyone at FINRA regarding this  
23 lawsuit?

24 A. No.

25 Q. Were you ever asked to provide

1 T. FEIL

2 any legal advice concerning the affect of  
3 this lawsuit on First Standard's filings  
4 with FINRA?

5 A. Can you repeat that?

6 MR. CANGIANO: Can you  
7 read back my question?

8 (Whereupon, a portion of  
9 the testimony was read back.)

10 A. No.

11 Q. Did you ever speak to anyone at  
12 FINRA regarding this lawsuit's effect on  
13 First Standard's net capital  
14 calculations?

15 A. No.

16 Q. Were you ever asked to provide  
17 any legal advice by First Standard  
18 regarding net capital calculations and  
19 this lawsuit?

20 A. I did have a discussion that I  
21 believe is covered by attorney-client  
22 privilege.

23 Q. Okay. Do you recall when you  
24 had that discussion?

25 A. During the last few months.

1 T. FEIL

2 Q. Okay. Do you recall who you  
3 had it with?

4 A. Yes.

5 Q. What is your basis for  
6 believing that it is covered by the  
7 attorney-client privilege?

8 A. There were inquiries made by  
9 now general counsel to First Standard to  
10 myself.

11 Q. And those inquiries were with  
12 regards to net cap calculations and that  
13 lawsuit?

14 A. Yes.

15 Q. Who is the general counsel at  
16 First Standard?

17 A. Jay Israel.

18 Q. And when did he become general  
19 counsel; do you know?

20 A. I believe it was late 2017,  
21 perhaps December.

22 Q. So it was after the  
23 commencement of this lawsuit?

24 A. If that's when it was. It may  
25 have been a little before, a little

1 T. FEIL

2 after. I can't be sure.

3 Q. Were you aware that this  
4 lawsuit commenced in March of 2017?

5 A. Yes.

6 Q. Were you asked to provide any  
7 legal advice with regards to this  
8 lawsuit?

9 A. No.

10 Q. Were you ever asked prior to  
11 today to review the amended initial  
12 disclosures that we looked at,  
13 Plaintiff's Exhibit 42?

14 A. Was I asked prior to today?

15 Q. Yes. We looked at it this  
16 morning, so prior to today?

17 A. Right. I did. I was presented  
18 the document in the last month or so.

19 Q. Okay. Was that after it became  
20 clear that your testimony was going to be  
21 requested?

22 A. Yes.

23 Q. Okay. So prior to that you had  
24 not seen that document?

25 A. Correct.

1 T. FEIL

2 Q. What information do you  
3 personally have regarding the -- and I am  
4 looking back at the initial  
5 disclosures -- frustration of the  
6 clearing agreement?

7 A. The only thing that I have,  
8 which is what was provided, that I think  
9 would fall under that category would be  
10 that Cor letter in or about  
11 February 2017.

12 Q. Okay. So if we can go back to  
13 the documents that you produced, and look  
14 at pages one through five?

15 A. Yes.

16 Q. I am going to give those pages  
17 Bates stamped TF 001 through TF 005 to  
18 the court reporter and ask her to mark it  
19 for identification purposes as  
20 Plaintiff's Exhibit 60.

21 (Whereupon, Bates stamped  
22 TF 001 through TF 005 was  
23 marked as Plaintiff's Exhibit  
24 60 for identification, as of  
25 this date.)

1 T. FEIL

2 Q. Do you have that in front of  
3 you, sir?

4 A. I do.

5 Q. Can I ask you to review that,  
6 please?

7 A. (Perusing.) Yes.

8 Q. Okay. The first three pages,  
9 TF 001 through 003, are a series of  
10 e-mails; is that correct?

11 A. Yes.

12 Q. And the first one is an e-mail  
13 that you sent to your counsel,  
14 Mr. Bursky; correct?

15 A. Yes.

16 Q. And that's forwarding the other  
17 ones?

18 A. Yes.

19 Q. Okay. So the next e-mail on  
20 this list in the chain is from Jonathan  
21 McCormick to you sent on February 13,  
22 2017; do you recall receiving that?

23 A. I do.

24 Q. Okay. And that's forwarding an  
25 e-mail from Mr. McComb to Mr. Berardi,

1 T. FEIL

2 Mr. McCormick, and CCing a bunch of other  
3 people; do you see that?

4 A. I do.

5 Q. Okay. It has got an attachment  
6 to it?

7 A. Yes.

8 Q. And that's pages TF 004 to 005?

9 A. Yes.

10 Q. Which is a letter from  
11 Mr. McComb to Mr. Berardi and  
12 Mr. McCormick?

13 A. Yes.

14 Q. Is this the letter we have been  
15 discussing?

16 A. Yes.

17 Q. Okay. And you received this  
18 from Mr. McCormick on February 13th;  
19 correct?

20 A. Yes.

21 Q. Okay. Were you asked to  
22 provide legal advice with regards to this  
23 letter?

24 A. I was consulted for purposes of  
25 this letter.



1 T. FEIL

2 Q. Okay. Were you consulted with  
3 regard to your provision of legal advice?

4 A. The communications with myself  
5 and First Standard regarding this letter  
6 was in the confines of a legal  
7 consultation, yes.

8 Q. Okay. Do you recall what  
9 subject your legal advice was sought?

10 A. The subject matter of the  
11 letter.

12 Q. Okay. Does looking at the  
13 letter -- when you said you spoke to  
14 Mr. McComb, did you speak to him -- you  
15 spoke to him regarding this letter; is  
16 that correct?

17 A. I believe I did.

18 Q. Okay. Looking at the letter,  
19 does that refresh your recollection as to  
20 anything that you and he may have  
21 discussed in your call?

22 A. Well, it does, but I think I  
23 testified earlier that -- yes, I did  
24 speak to him, and it was relative to this  
25 letter.

1 T. FEIL

2 Q. I am asking does looking at the  
3 letter now refresh your recollection as  
4 to any specific things that you discussed  
5 with him, or he discussed with you?

6 A. No. The letter does not.

7 Q. Okay. Did you undertake any  
8 other actions as a result of receiving  
9 this letter other than speaking to  
10 Mr. McComb?

11 A. No.

12 Q. Did you do any legal research  
13 as a result of receiving this letter?

14 A. I don't recall.

15 Q. Did you write any responses to  
16 Mr. McComb or anyone at Cor as a result  
17 of receiving this letter?

18 A. No.

19 Q. Do you recall what the result  
20 of your conversation with Mr. McComb on  
21 the phone was, if anything?

22 A. I believe there was no result.  
23 It was a very brief conversation, and  
24 there was no result, there was no  
25 happening. The call was the sum and

1 T. FEIL

2 substance of -- there was no result.

3 Q. Okay. Do you recall any other  
4 discussions thereafter regarding the  
5 claim that First Standard had breached  
6 the agreement with Cor?

7 A. I'm sorry, with Mr. McComb?

8 Q. Sure, with Mr. McComb?

9 A. No.

10 Q. Do you recall ever being  
11 consulted further with regards to the  
12 claim that First Standard had breached  
13 the agreement with Cor between, let's  
14 say, the date of February 13th, and the  
15 filing of this Complaint?

16 A. I believe there was  
17 conversation with First Standard, but  
18 after that, no, nothing further.

19 Q. Okay. Do you recall what you  
20 discussed with First Standard in regards  
21 to that?

22 A. I do.

23 Q. Okay. Can I ask you what that  
24 was?

25 A. I don't believe so. That

1 T. FEIL

2 conversation would be covered by  
3 attorney-client privilege.

4 Q. And why do you believe that it  
5 would be covered by attorney-client  
6 privilege?

7 A. Because it was in connection  
8 with a legal consult.

9 Q. Okay. What further legal  
10 consultation did you have with them?  
11 What was the general subject of it?

12 A. This letter, and my  
13 conversation with Ethan McComb.

14 Q. Do you recall if you made any  
15 notes of your conversation with  
16 Mr. McComb, short as it may have been?

17 A. I do recall that I did not.

18 Q. Can I ask you to look at  
19 Plaintiff's Exhibit 37, which was sent to  
20 you yesterday, it was previously marked.

21 A. Yes.

22 Q. Okay. This is an e-mail from  
23 Mr. McComb to Mr. Berardi, and  
24 Mr. McCormick, and it CCs some other  
25 people. It says, "dear Mr. Berardi and

1 T. FEIL

2 McCormick, I am writing to follow up on  
3 our February 13th letter attached below  
4 in which we asked that First Standard let  
5 us know whether First Standard intends to  
6 immediately hear breaches of the FCDA,  
7 and fulfill its obligations under the  
8 FCDA. Since we have not received any  
9 response to our request we are writing  
10 again to ask that First Standard please  
11 respond."

12 Do you recall if you were  
13 provided a copy of this e-mail?

14 A. I don't.

15 Q. You see that it is dated  
16 February 21, 2017?

17 A. Yes.

18 Q. Do you believe that you spoke  
19 to Mr. McComb prior to this e-mail being  
20 sent?

21 A. I don't recall whether it was  
22 shortly before or afterwards.

23 Q. Okay. Do you have any reason  
24 to believe that he would be questioning  
25 as to whether they had responded if you

1 T. FEIL

2 had spoken to him already?

3 A. I don't -- I can't answer that.

4 Q. Do you recall if when you spoke  
5 to him you would -- you advised him that  
6 they would be providing a further  
7 response?

8 A. No, I don't recall that.

9 Q. So is it safe to say that your  
10 involvement with regards to the agreement  
11 between Cor and First Standard happened  
12 subsequent to the agreement being signed,  
13 and around the time that they were  
14 breaching or purportedly breaching the  
15 agreement?

16 A. That's a fair statement.

17 Q. And that prior to that you had  
18 no real involvement with the agreement or  
19 the decision to seek a new agreement with  
20 Cor?

21 A. Seek a new agreement with --

22 Q. Seek a new clearing  
23 relationship with Cor?

24 A. Yes, my involvement was after  
25 the execution, and in that late 2016,

1 T. FEIL

2 early 2017 time-frame.

3 Q. Around the time of the  
4 allegation that First Standard had  
5 breached the agreement?

6 A. Yes.

7 Q. And even as to that you have no  
8 personal of any facts?

9 A. Other than what I have stated,  
10 yes.

11 Q. Other than what you were told  
12 by First Standard's management, you have  
13 no personal knowledge of any of the facts  
14 surrounding it?

15 A. Correct.

16 Q. Okay.

17 MR. CANGIANO: Can we  
18 take a minute or two off the  
19 record?

20 MR. BURSKY: Sure.

21 (Whereupon, a short break  
22 was taken at this time.)

23 Q. Mr. Feil, can you take a look  
24 at what has been previously marked as  
25 Plaintiff's Exhibit 38, please?

1 T. FEIL

2 A. Yes.

3 Q. Okay. That's the First Amended  
4 Complaint in this matter.

5 A. Yes, it appears to be.

6 Q. Have you seen this before?

7 A. Yes.

8 Q. Okay. In what context have you  
9 seen it?

10 A. In or about the time that it  
11 was filed, I believe we were made aware  
12 of it, of same.

13 Q. Okay. I am sorry, finish your  
14 answer.

15 A. Then I think we pulled it up  
16 through ECF.

17 Q. Okay. Did you review it at  
18 that time?

19 A. Yes.

20 Q. Okay. Do you have any  
21 discoverable non-privileged information  
22 regarding the factual allegations in this  
23 Complaint?

24 A. No.

25 MR. BURSKY: Before you



1 T. FEIL

2 say that, I mean, did you  
3 review the Complaint?

4 MR. CANGIANO: He can  
5 feel free to. If he wants to  
6 re-review the Complaint,  
7 because he did say that he  
8 has reviewed it once at  
9 least, but if he wants to  
10 re-review it, it is  
11 completely up to him.

12 MR. BURSKY: Keep in  
13 mind some documents have been  
14 furnished from you already  
15 from Cor standpoint which may  
16 be issues raised in the  
17 Complaint; right?

18 MR. CANGIANO: You mean  
19 the documents that he has  
20 produced, and we have already  
21 gone through?

22 MR. BURSKY: Right.

23 A. Nothing more than what I have  
24 previously provided through Mr. Bursky.

25 Q. So since we are talking about

1 T. FEIL  
2 the documents, can I ask you what sort of  
3 review you did to find documents in  
4 regards to the case?

5 MR. BURSKY: If I  
6 understood correctly the  
7 question is what documents?

8 Q. What review did you undertake  
9 to find documents, what search?

10 A. It was -- we reviewed  
11 documented, or I reviewed any documents  
12 that we had on our server for First  
13 Standard relative to Cor, and we also --  
14 I also did an e-mail search.

15 Q. Did you maintain a physical  
16 file in regards to First Standard?

17 A. Not for this matter.

18 Q. Okay. The only documents that  
19 you found that were responsive to the  
20 Subpoena were the ones that you produced?

21 A. Correct.

22 Q. Okay. And you can't think of  
23 anywhere else where such documents might  
24 be?

25 A. No.

1 T. FEIL

2 Q. And you haven't withheld any  
3 documents on the basis of privilege?

4 A. No.

5 Q. Okay. Do you have any  
6 understanding as to why First Standard  
7 continues to maintain your name on their  
8 Amended Initial Disclosures?

9 A. Frankly, no.

10 Q. Have you asked them to amend to  
11 remove your name?

12 A. I don't believe it went that  
13 far other than perhaps to point out that  
14 there was a different attorney that was  
15 involved in the negotiation or drafting  
16 process on behalf of First Standard, and  
17 perhaps there was some confusion at that  
18 point.

19 Q. You advised Mr. Lieberman of  
20 that?

21 A. Very recently, yes.

22 Q. Okay. By "very recently," does  
23 that mean when you found out that you  
24 were going to be called as a witness in  
25 this matter?

1 T. FEIL

2 A. Yes.

3 Q. Okay. And that was within the  
4 past month; is that right?

5 A. Approximately, yes.

6 Q. Okay. Mr. Lieberman had not  
7 discussed with you the fact that you had  
8 been named as a potential witness as far  
9 back as August 2017; did he?

10 A. I don't believe I was made  
11 aware of that until recently.

12 Q. Okay. Have you had any  
13 discussions, other than the ones we just  
14 talked about, with Mr. Lieberman in  
15 regards to this case?

16 A. Very generally just getting  
17 sort of the update as to timing.

18 Q. Okay. Do you remember when  
19 that was?

20 A. In or about the same time of  
21 the Subpoena.

22 THE WITNESS: Can you  
23 give me one second?

24 (Whereupon, a short break  
25 was taken at this time.)

1 T. FEIL

2 Q. You said that you had  
3 identified to Mr. Lieberman that perhaps  
4 you were not the correct attorney to  
5 call, and that there was another attorney  
6 who was involved in the drafting and  
7 negotiation process; do you recall that  
8 testimony?

9 A. Yes.

10 Q. And which attorney were you  
11 referring to?

12 A. Ian Frimet.

13 Q. It is your understanding if  
14 anyone has any information regarding that  
15 it would be Mr. Frimet?

16 A. That's my understanding, yes.

17 Q. Did you have any discussions at  
18 all with Mr. Lieberman regarding your  
19 testimony here today?

20 A. Yes, I had conversations with  
21 him.

22 Q. Okay. What was said?

23 A. Generally why am I being  
24 called, and is it necessary.

25 Q. And do you recall what he said

1 T. FEIL

2 to you?

3 A. Yes, that I was previously  
4 identified, and, you know, the capacity  
5 in which I was identified, and my retort  
6 that I don't think the description is  
7 quite correct from the 26(a).

8 Q. Okay. Great. Do you recall  
9 any further response to him in regards to  
10 that?

11 A. No, not really.

12 Q. Do you recall how many  
13 conversations you had with him in that  
14 regards, I mean, how many times you spoke  
15 to him in regards to this issue?

16 A. Two or three limited, and  
17 then -- yeah, two or three.

18 Q. Okay. That's within the past  
19 month; is that right?

20 A. Yes.

21 Q. Okay. Have you spoken to  
22 Mr. Lieberman since you retained  
23 Mr. Bursky?

24 A. I don't believe so.

25 Q. Has there been any discussion

1 T. FEIL

2 about First Standard covering

3 Mr. Bursky's fees on your behalf?

4 A. I don't believe so. I think  
5 that's my responsibility.

6 Q. Your responsibility to ask them  
7 to do so?

8 A. No, I think my responsibility  
9 to pay Mr. Bursky.

10 Q. Do you plan to ask them to  
11 reimburse you?

12 A. I am sorry?

13 Q. Do you plan to ask them to  
14 reimburse you?

15 A. No.

16 Q. Do you plan to ask them to  
17 compensate you for the time you had to  
18 spend here today?

19 A. No.

20 MR. CANGIANO: Off the  
21 record.

22 (Whereupon, a discussion  
23 was held off the record.)

24 MR. CANGIANO: Mr. Feil,  
25 I think that's all of the

1 T. FEIL

2 questions we have for you.

3 Thank you very much for your  
4 time and your patience, and  
5 we will close our deposition  
6 of you.

7 THE WITNESS: You are  
8 very welcome, and thank you  
9 for the accommodation via  
10 zoom.

11 MR. CANGIANO: Happy to  
12 help. Hopefully it was a  
13 little easier than Skype. We  
14 had issues with Skype  
15 depositions before.

16 MR. BURSKY: Will you be  
17 sending us a copy of this  
18 transcript to review?

19 MR. CANGIANO: I believe  
20 that -- I don't want to  
21 advise as to what the rules  
22 are, but I believe it is your  
23 responsibility to ask for it,  
24 and if you do the court  
25 reporter will provide one to



1 T. FEIL

2 you.

3 MR. BURSKY: I just  
4 wanted to know if you were  
5 doing so as a matter of  
6 course.

7 MR. CANGIANO: We would  
8 absolutely send you a copy of  
9 it, but I think in order to  
10 be able to -- we can off the  
11 record.

12 (TIME NOTED: 12:40 p.m.)

13

14

TIMOTHY FEIL

15

Subscribed and sworn to

16

before me this day

17

of , 2018.

18

19

NOTARY PUBLIC

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C E R T I F I C A T E

I, ILYSA A. LINZER, a Shorthand  
Reporter and Notary Public of the State  
of New York, do hereby certify:

That, TIMOTHY FEIL, the Witness  
whose examination is hereinbefore set  
forth, was duly sworn, and that such  
examination is a true record of the  
testimony given by such Witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage; and that I  
am in no way interested in the outcome of  
this matter.



*Ilysa Linzer*

ILYSA A. LINZER

MAY 23, 2018